THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.4030 OF 2005

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DATED 23.11.2005

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BETWEEN

J.Madhusudan Reddy, S/o Rama Subba Reddy,

R/o Vemuguntapalem, Annamedu Post,

Naidupet (M), Nellore Distirct.

… Petitioner

and

The District Collector, Nellore District at Nellore and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.4030 OF 2005

ORDER:

The petitioner claims to be the owner of agricultural lands admeasuring Acs.6.50 in Survey Nos.164/4A, 164/4B and 165/2 of Kapuluru village, Naidupet Mandal of Nellore District. He alleges that the third respondent who is the owner of agricultural land on the Western side of the petitioner's land demanded to give access to the third respondent to go to his lands and when the petitioner did not oblige him, he approached the revenue authorities seeking redressal in providing a road. The

second respondent issued a notice on 28.05.2004 directing the petitioner to provide a road and the petitioner also orally agreed to do the same. At that stage, though the petitioner has not encroached upon the Government land, the second respondent issued the impugned notice in R.C.B.No.327/2004, dated 26.02.2005, purporting to be under Section 7 of A.P.Land Encroachment Act, 1905 (for short, the Act). Aggrieved by the same, the present writ petition is filed.

The petitioner's counsel vehemently contends that the petitioner has not encroached upon the Government land, that he is the owner of the land in question and therefore resort to the provisions of Land Encroachment Act is illegal and arbitrary.

At the stage of Admission itself, the Mandal Revenue Officer has filed a counter affidavit alleging that the land in Survey No.39 of Annamedu village is classified as "Swarnamukhi River Poramboke", and that the petitioner who is having patta lands in Survey No.164/4 of Kapuluru village illegally encroached upon the land to an extent of Acs.0.16½ in Survey No.39 of Annamdedu village and therefore a notice was issued under Section 7 of the Act and the petitioner submitted explanation on 07.03.2005. After considering the explanation, orders are passed under Section 6 of the Act on 30.03.2005 and it was also served on the petitioner on 21.04.2005.

In view of the counter averments, which are reiterated by the learned Assistant Government Pleader for Revenue (General), nothing survives in the writ petition. The counsel for the petitioner, Sri K.Srinivas, however submits that the petitioner has already filed appeal, and pending appeal if the petitioner is dispossessed, he would suffer prejudice and hardship. If the petitioner has already approached appellate authority,
i.e., Revenue Divisional Officer having jurisdiction of the matter, it shall be open to the petitioner to obtain appropriate interim orders from the Revenue Divisional Officer. In this writ petition, however, no relief can be granted.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

23.11.2005.

pln